

ZONING MAP CHANGE REPORT

Meeting Date: January 17, 2012

Table A. Summary			
Application Summary			
Case Number	Z1000017	Jurisdiction	City
Applicant	Durham City-County Planning Department	Submittal Date	December 13, 2010
Reference Name	Ninth Street Compact Design District	Site Acreage	115.82
Location	The area generally between Trent Street to the west, Broad street to the east and north of West Main Street and south of Green Street.		
PIN(s)	See Attachment 5, Application		
Request			
Proposed Zoning	Compact Design – Core (CD-C), Compact Design – Support 1 (CD-S1), Compact Design – Support 2 (CD-S2), Compact Design – Pedestrian Business (Ninth Street)(CD-P(N))		
Site Characteristics			
Development Tier	Compact Neighborhood		
Land Use Designation	Design District		
Existing Zoning	Commercial Center (CC), Commercial General (CG), Commercial General with a development plan (CG(D)), Commercial Neighborhood (CN), Industrial Light (IL), Industrial Light with a development plan (IL(D)), Mixed Use with a development plan (MU(D)), Office Institutional (OI), Office Institutional with a development plan (OI(D)), Planned Development Residential – 0.000 (PDR 0.00), Residential Compact with a development plan (RC(D)), Residential Urban – Multifamily (RU-M), Residential Urban - 5(2) (RU-5(2))		
Overlay	N/A	Drainage Basin	Falls Lake
River Basin	Neuse	Stream Basin	Ellerbe Creek
Determination/Recommendation/Comments			
Staff	Staff determines that, should the text amendment be approved, this request is consistent with the <i>Comprehensive Plan</i> and other adopted policies and ordinance.		
Planning Commission	Approval, 11 – 1 on October 11, 2011 of the subdistrict map as defined in the adopted Ninth Street Plan, which differs from staff’s recommendation to change the dividing line between the Support 1 and Support 2 subdistricts. The Planning Commission finds that the ordinance request is consistent with the adopted <i>Comprehensive Plan</i> . The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing, the information in the staff report, and the input from the community.		
DOST	None provided		
BPAC	None provided		

A. Summary

Pursuant to the adopted policy direction in the adopted Ninth Street Plan to establish a Design District for the Ninth Street Compact Neighborhood Tier, this zoning map change request is to implement the CD-C, CD-S1, CD-S2, and CD-P zoning districts within the Ninth Street Compact Neighborhood Tier and remove the existing base zoning districts of CC, CG, CG(D), CN, IL, IL(D), MU(D), OI, OI(D), PDR 0.000, RC(D), RU-M, RU-5(2). Should text amendment TC1000005 be approved, this request would be consistent with the *Comprehensive Plan* as well as the UDO and the adopted Ninth Street Plan.

B. Site History and Adopted Plans

The area within the Ninth Street Compact Neighborhood Tier formerly functioned as a largely self-contained mill village. Erwin Cotton Mill was constructed in 1892, and became the centerpiece of the area. The Ninth Street business district began growing in earnest in 1910 as the mill worker population increased.

The *Northwest Central Durham Plan* covered the area proposed to remain in the Compact Neighborhood Tier. The plan was last amended in 1992. The plan designated parts of this area as High Density Residential (8+ DU/Ac.), Mixed Use, Office and Commercial. The Plan was superseded by the *Durham Comprehensive Plan* upon its adoption in 2005. The *Ninth Street Plan* was adopted by the Durham City Council on November 17, 2008. The Plan called for revisions to the *Comprehensive Plan*, the Future Land Use Map, the Unified Development Ordinance (UDO), and policy changes impacting the area. Since the adoption of the Plan, Planning staff has been implementing many of those plan amendments, text changes, and policy redirections.

One of the implementation strategies in the plan is to create a hybrid form-based zoning district for the Ninth Street Compact Neighborhood Tier. The form-based code would allow new development in the area to complement the existing development patterns, allow for the greater densities, particularly residential densities, needed to support future transit, and respect the scale and character of the surrounding historic neighborhoods. Many details regarding the regulations to be included in this new zoning district were established in the Plan. However, many areas regulated by the UDO were not discussed in detail in the Plan and therefore, additional input from the community and development by staff were required.

Throughout the drafting period Planning staff held a series of public meetings and worked with various stakeholders to encourage open communication in the process.

This zoning map change request encompasses a portion of the West Durham National Register Historic District, designated March 26, 1986. The City of Durham has no administrative responsibilities in relation to National Register Historic Districts.

C. Unified Development Ordinance

Should the accompanying text amendment (Case TC1000005) be approved, this request would be consistent with the requirements of the Unified Development Ordinance. The following are the proposed district intent statements for this zoning map change request:

The **Compact Design (CD) District** is intended to encourage development of appropriate urban intensity and pedestrian activity by focusing on the form of development and how it shapes the streetscape. The CD District includes the dense core surrounding the future transit station area as well as adjacent areas that provide a transition from the dense core to less intense, surrounding areas.

The boundary of the Ninth Street Compact Neighborhood Tier and the CD district will be congruent. Areas within the CD district will be assigned one of the four new sub-districts (see Attachment 2, Context Map – Proposed Zoning):

CD-Core (CD-C) is the portion of the CD district where the highest intensity, densest urban development, with a mix of vertically integrated uses, is expected and encouraged.

CD-Support 1 (CD-S1) is the portion of the CD district where moderate intensity urban development creates a mixed use urban environment at a lesser scale that respects adjacent development.

CD-Support 2 (CD-S2) is the portion of the CD district intended to provide a sensitive transition from more intense development to development adjacent to the district, often residential in nature.

CD-Pedestrian Business (CD-P(N)) is the portion of the CD district created to protect the character existing along the east side of Ninth Street within the district and to ensure that any new development on the west side of Ninth Street within the district is in keeping that that character.

Determination. The assignment of these districts as shown on the Proposed Ninth Street Compact Design District Zoning Map (see **Attachment 2**) demonstrates sensitive geographic applicability to their intent.

D. Staff Analysis

The changes to the zoning map as proposed include removing the existing zoning district in the Ninth Street Compact Neighborhood Tier (CC, CG, CG(D), CN, IL, IL(D), MU(D), OI, OI(D), PDR 0.000), RC(D), RU-M, RU-5(2)) and replacing these districts with the Compact Design District zoning. This Compact Design (CD) District zoning will include four sub-districts mapped to taper the intensity and density of development to appropriately respect the character of the surrounding areas (see **Attachment 2**). The Core (CD-C) sub-district identifies the area of, and surrounding, the proposed station area and allows the greatest intensity. The districts then taper in intensity moving away from the core with the Support 1 (CD-S1). The Support 2 sub-district (CD-S2) is used mainly to transition to the

residential neighborhoods adjacent to the Tier boundary. The Pedestrian Business (CD-P(N)) sub-district was created to protect the existing character along the east side of Ninth Street and ensure new development along the west side of the street is in keeping with that character.

Approval of this request will codify the principles adopted in the *Ninth Street Plan* and implement flexible development standards for the Ninth Street Compact Neighborhood Tier. This will allow the area to develop at a pedestrian-friendly scale, focusing on building form, and accommodate a variety of uses, while respecting the integrity of and the transition to the existing adjacent neighborhoods.

Stakeholders have raised concerns about removing the existing zoning designations that have an associated development plan. In consultation with the City Attorney's office on this issue, Planning staff has determined that there is no ability to retain these development plans and associated commitments with this rezoning because it is a City-initiated application and the City does not have the legal authority to establish development plans on properties without the owner's consent. Staff has been diligent in their efforts to ensure the character of the proposed district will regulate massing, architectural and streetscape standards, and many other of the concerns that resulted in commitments by developers on previously rezoned properties in the area.

After residents raised concerns regarding the Ninth Street North Development plan at the August Planning Commission public hearing, Planning staff met several times with stakeholders to determine potential revisions to the zoning map change and text amendment to address these concerns. Out of those conversations, Planning staff recommended at the October Planning Commission public hearing the relocation of the dividing line between the Support 1 and Support 2 sub-districts over the Ninth Street North Phase 1A site area to 120 feet south of Green Street from its current location 50 feet south of Green Street (see Attachment 6, Recommended Sub-district Shift). This line is in keeping with the division on the Ninth Street North development plan (Case Z07-45) between the 50 foot and 65 foot building height sections of the site. The Planning Commission recommended approval without the incorporation of this staff recommendation.

E. Contacts

Table I. Contacts		
Staff Contact		
Lisa Miller, Senior Planner	Ph: 919-560-4137, ext. 28270	Lisa.Miller@DurhamNC.gov
Amy Wolff, Senior Planner	Ph: 919-560-4137, ext. 28235	Amy.Wolff@DurhamNC.gov
Applicant Contact		
Agent: Steven L. Medlin, Planning Director	Ph: 919-560-4137, ext. 28223	Steve.Medlin@DurhamNC.gov

F. Notification

Staff certifies that newspaper advertisements, letters to property owners within 600 feet of the site and the posting of a zoning sign on the property has been carried out in accordance with Section 3.2.5 of the UDO. In addition, the following neighborhood organizations were mailed notices:

- Inter-Neighborhood Council
- Partners Against Crime – District 5
- TTA Station Sites
- Fayetteville Street Planning Group
- Ellerbee Creek Watershed Association
- Friends of Durham
- Old West Durham
- Unity in the Community for Progress

G. Summary of Planning Commission Meeting October 11, 2011 (Case Z1000017)

Zoning Map Change Request: CC, CG, CG(D), CN, IL, IL(D), MU(D), OI, OI(D), PDR 0.000, RC(D), RU-M, RU-5(2) to CD-C, CD-S1, CD-S2, CD-P(N)

Staff Report: Ms. Miller presented the staff report.

Public Hearing: Chair Brown reopened the public hearing. Seven people spoke in favor and none spoke against. Chair Brown closed the public hearing.

Commission Discussion: Commission discussion centered around the new staff recommendations, the location of the S2 district, the maximum height limitation, and the requirement for residential in the S2 district.

Motion: Approval of the Zoning Map Change without staff's recommended revision to the S1 and S2 boundaries. (Mr. Monds, Mr. Jones 2nd)

Action: Motion carried, 7-5 (Beechwood, Harris, Martin, Smudski, and Whitley voting no).

Motion: To reconsider Z1000017. (Mr. Monds, Mr. Harris 2nd)

Action: Motion carried, 11-1 (Davis voting no).

Motion: Approval of the Zoning Map Change with staff's recommended revision to the S1 and S2 boundaries. (Ms. Winders, Ms. Board 2nd)

Substitute Motion: Approval of the Zoning Map Change without staff's recommended revision to the S1 and S2 boundaries. (Ms. Beechwood, Mr. Whitley 2nd)

Action: Motion carried, 11-1 (Harris voting no).

Findings: The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing, the information in the staff report, and the input from the community.

H. Supporting Information

Table K. Supporting Information		
Applicability of Supporting Information		
Appendix A	Application	Attachments: 1. Context Map – Existing Zoning 2. Context Map - Proposed Zoning 3. Future Land Use Map 4. Aerial Photography 5. Application
Appendix B	Site History and Adopted Plans	No additional supporting information.
Appendix C	Unified Development Ordinance	No additional supporting information.
Appendix D	Staff Analysis	Attachments: 6. Recommended Sub-district Shift
Appendix E	Contacts	No additional supporting information.
Appendix F	Notification	No additional supporting information.
Appendix G	Summary of Planning Commission Meeting	Attachments: 7. Planning Commissioner’s Written Comments 8. Ordinance Form

Appendix A: Application Supporting Information

Attachments:

1. Context Map – Existing Zoning
2. Context Map – Proposed Zoning
3. Future Land Use Map
4. Aerial Photography
5. Application

Appendix D: Staff Analysis

Attachments:

6. Recommended Sub-district Shift

Appendix G: Summary of Planning Commission Meeting Supporting Information

Attachments:

7. Planning Commissioner’s Written Comments
8. Ordinance Form